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| 09/761,121      | 01/16/2001  | Robyn R. Levine      | END920000173US1     | 2906             |

7590 06/10/2010  
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| EXAMINER |
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RETTA, YEHDEGA

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3622

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



|                              |                                      |   |  |
|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/761,121 | <b>Applicant(s)</b><br>LEVINE, ROBYN R. |  |
|                              | <b>Examiner</b><br>Yehdega Retta     | <b>Art Unit</b><br>3622                 |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 April 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |



### DETAILED ACTION

This office action is in response to Request for Continued Examination filed April 15, 2010. Applicant cancelled claims 1-9, 12-18 and 20-23 and added claims 24-30. Claims 24-30 are currently pending.

#### *Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 24 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claim recites “that when executed: determines constraints for said access device; *purchases lifestyle view data for said user, from a firm.*”

The specification teaches as follows: (see page 12)

*The profiled past of step 14 may also comprise retrieving purchased data whether or not a part of the demographic profile 26 or any other profile. Various firms provide data for purchase which is grouped or keyed to presenting a lifestyle or lifestage view of users by block or group or some baseline parameter. The purchased data presents a view of the user based on aggregation of data points such as, but not limited to geographic block, age of head of household, income level, number of children, education, ethnicity, and buying patterns.*

The specification however does not teach *when instruction are executed purchases lifestyle view data for said user, from a firm.*



The claim also recites when executed *creates a vision of core competencies of said supplier* based on said access device, and said profiled past, ***and said lifestyle view data***, and said current actions; *develops an opportunity consistent with said vision by merging said vision of core competencies with said supplier's channel awareness; and delivers said opportunity to said user via said connectivity to said access device.*

The specification discloses (see page 12):

***The profiled past*** of step 14 ***may also comprise retrieving purchased data*** whether or not a part of the demographic profile 26 or any other profile. Various *firms provide data for purchase which is grouped or keyed to presenting a lifestyle or lifestage view of users by block or group or some baseline parameter.* ***The purchased data presents a view of the user based on aggregation of data points such as, but not limited to geographic block, age of head of household, income level, number of children, education, ethnicity, and buying patterns.***

In one embodiment of the invention as shown in FIG. 3, content is delivered by creating a vision of the supplier's core competencies *based on the user-centered perspective of point of contact 12, profiled past 14, and current actions 16.* Current promotional opportunities 32 are developed consistent with the vision by merging together and optimizing this user centered perspective with the supplier's channel awareness whether voice-to-voice, V2V, or face-to-face, F2F, or fingertip device. Closed loop content delivery as explained above is possible by sensing and feeding back, via path 36, user response or actions to previous content delivery.

The specification however does not teach that the content is delivered by creating a vision of the supplier's core competencies based on lifestyle view or on a profile past the comprises of lifestyle.

The specification teaches that profiled data may comprise of retrieving purchased data. The specification further disclosed that *firms provide data for purchase* which is grouped or keyed to presenting a lifestyle or lifestage. The specification does not disclose



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that the retrieved purchased data includes data which is grouped or keyed to presenting lifestyle or lifestage.

The specification also does not disclose when executed *creates a vision of core competencies of said supplier based on said access device, and said profiled past, and said lifestyle view data, and said current actions; develops an opportunity consistent with said vision by merging said vision of core competencies with said supplier's channel awareness; and delivers said opportunity to said user via said connectivity to said access device.*

The specification discloses content is delivered by *creating a vision of the supplier's core competencies based on the user-centered perspective of point of contact 12, profiled past 14, and current actions 16* and current promotional opportunities 32 are developed consistent with the vision by merging together and *optimizing this user centered perspective with the supplier's channel awareness* whether voice-to-voice, V2V, or face-to-face, F2F, or fingertip device, which is difference than what is claimed.

Claim 24 recites wherein the access device having a location indication and claim 25 recites that the system of claim 24, wherein said access device is a cell phone, kiosk, personal digital assistant such as a palm top device, a laptop computer, a desktop computer, or a computer terminal. Claim 27 also recites that the system of claim 24, wherein said location indication capability is a real time GPS receiver.

Applicant's specification on page 8 discloses as follows:

In one method embodiment of the present invention, in step 12 of FIG. 1, in the moment point of contact constraints, also called in FIG. 3 an immediate/clickstream profile, of the user are determined. The user is interacting with the supplier using some type of device which may be a cell phone, kiosk, personal digital assistant such as a palm



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top device, a laptop computer, a desktop computer, a computer terminal or any other access device.

On page 9 the specification discloses:

Likewise the time and/or location of a mobile user might need to be determined on a more frequent basis while the same information for a home user at a desktop computer might need to be determined only once e.g. at the start of an access session. Other constraints as described in this specification shall also be included in the meaning of the term.

A location indication of the point of contact may also be determined in step 12. For example, GPS (geological positioning system) coordinates of the user may be determined if the user device has such a capability whether by including a real time GPS receiver or by periodically storing GPS coordinates entered by some other method. Other location indications may also be determined such as post office address, street or crossroad coordinates, latitude-longitude coordinates or any other location indicating system. Determining a location is advantageous in the case of a user having a portable device and particularly advantageous when the user is mobile when in actual motion or temporarily stopped.

However the specification does not disclose that cell phone, kiosk, personal digital assistant such as a palm top device, a laptop computer, a desktop computer, or a computer terminal having a location indication capability and the capability is a real time GPS receiver.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.



Claim 24 recites said advertising computer *executing instructions on a processor to provide a web site accessible by said user via said access device*, **that when executed: determines constraints for said access device; ...**

It is understood that the instructions are executed by the computer on a processor *to provide a web site* but it is not clear what is executed and determines, retrieves, creates etc. Clarification is requested.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al. U.S. Patent No. 6,101,486 in view of Lee et al. U.S. Patent No. 6,829,475.

Regarding claims 24 and 27, Roberts teaches an access device having connectivity to a supplier advertising computer and said access device (see col. 5 lines 25-40), said advertising computer executing instructions on a processor to provide a web site accessible by said user via said access device, that when executed: determines constraints for said access device (see col. 5 lines 25-40); retrieves a profiled past of said user; retrieves current actions of said user; creates a vision of core competencies of said supplier based on said access device, and said profiled past, and said lifestyle view data, and said current actions; develops an opportunity consistent with said vision by merging said vision of core competencies with said supplier's channel awareness (see col. 6 line 60 to col. 7 line 16); and delivers said opportunity to said user via said connectivity to



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said access device (see fig. 3&4, col. 4 lines 24 to col. 5 lines 40, col. 6 lines 12 to col. 7 line 46). Robert teaches delivering an opportunity to user by creating a vision of a supplier's core competencies based on constraints of said point of contact and profiled past and current action (personalized or customized information message) (see col. 6 line to col. 7 lines 10), consistent with the vision by merging together and optimizing said vision with the suppliers channel awareness (providing voice communication with the customer (see col. 5 line 25 to col. 6 line 11). Robert failed to teach that the access device having a location indication capability and wherein said location indication capability is a real time GPS receiver. Lee teaches GPS receiver 110 that continuously reports the vehicle's longitude, latitude and altitude, location indication and providing advertisements (col. 11 line 60 to col. 12 line 3). Lee teaches providing mapping services to the vehicle showing travel routes or locations of interest and coupled with the advertising database drivers can see map locations related to recent advertisements and get navigation guidance to these locations. For example, the driver could get directions to the nearest chain restaurant whose commercial just played offering a lunch special. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a location enhanced advertisement or opportunity, as in Lee, in Robert's customized marketing message in order to provide the advantage taught by Lee. Robert's also failed to teach purchasing lifestyle view data from a firm. Official notice is taken that is old and well known to acquire user's profile (lifestyle view) from a third party, such as ISP. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention to acquire (purchase) the information from a firm (thirdparty) since it can be time consuming for each business to collect, store and process the information and the



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business might not be expert in modeling the input data and might fail to apply sufficient resources to properly use the information. (for the official notice support see Nascenzi et al. US 6,879,960, col. 1 lines 20-57, col. 6 line 8 to col. 7 line 11).

Regarding claim 25, Roberts teaches the system of claim 24, wherein said access device is a cell phone, kiosk, personal digital assistant such as a palm top device, a laptop computer, a desktop computer, or a computer terminal (see col. 5 lines 25-40).

Regarding claim 26 Roberts teaches wherein said connectivity is a modem, digital modem, high speed lines, or wireless connection (see fig. 1 and col. 5 lines 25-40).

Regarding claim 28 Roberts teaches the profile past including demographic data (see col. 4 lines 33-67).

Regarding claims 29 and 30, Roberts teaches that said current actions includes transaction, wherein the transaction includes purchases or payment or returns (see col. 4 lines 33-44, col. 5 lines 1-24 and col. 6 line 36 to col. 7 line 9).

### ***Response to Arguments***

Applicant's arguments with respect to claims 24-30 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YR

/Yehdega Retta/

Primary Examiner, Art Unit 3622